

REMARKS

The present application is directed to novel compositions and methods consisting essentially of nimesulide and 17% to 59% by weight of a glyceryl monoolein-solvent phase. The compositions are particularly suited for the treatment of pain, inflammation and stiffness in an animal or human. Claims 19-38 were pending prior to the issuance of the January 29, 2004, Non-Final Office Action. Following entry of this amendment Claims 19-42 will be pending. Claims 22, 24, 33 and 35 are amended, and Claims 26-29 cancelled without prejudice. New Claims 39-42 have been added. No new matter is added, and support for the amendments is found throughout the specification and in the original claims.

Claim rejections 35 U.S.C. §112, second paragraph

Claims 22-25 and 33-36 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as the invention. The Examiner states that independent Claims 19 and 30, are limited to compositions “consisting essentially of nimesulide and 17% to 59% by weight glyceryl monoolein-solvent phase” and the respective dependant Claims 22-25 and 33-36 expand the compositions with broader transitional language.

Applicants have amended the dependent claims to contain the partially closed transitional language “consisting essentially of”. Therefore, the amended dependent claims do not extend the scope of the independent claims. Applicants submit that they have overcome the rejection under §112, second paragraph, and request its withdrawal.

Claim rejections 35 U.S.C. §103 (a)

Claims 26-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jain *et al.* (EP 812,587). Applicants have cancelled process Claims 26-29 without prejudice. Therefore, this rejection is now moot, and Applicants respectfully request withdrawal of the rejection under 103(a).

Application No. 09/762,630
Fourth Amendment and Response to Office Action

New Claims

New Claims 39-42 correspond to formerly presented Claims 24-25 and 35-36, and differ in that Claims 39 and 41 depend directly from their respective independent claims.

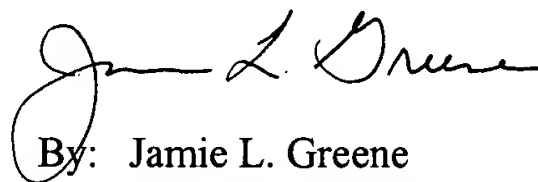
Allowed Claims

The Examiner indicated that Claims 19-21, 30-32, 37 and 38 were allowed. Amended Claims 22, 24, 33 and 35 and new Claims 39-42 depend directly or indirectly from allowed independent Claims 19 and 30, and Claims 23, 25, 34 and 36 depend from the amended claims.

CONCLUSION

Applicants respectfully submit that this is a complete response to the non-final Office Action dated January 29, 2004, and that the pending claims are novel and patentably distinct. Early and favorable consideration is earnestly solicited. If the Examiner believes there are other issues that can be resolved by telephone interview, or that there are any informalities remaining in the application that may be corrected by Examiner's Amendment, a telephone call to the undersigned attorney at (404) 815-6500 is respectfully solicited.

Respectfully submitted,



By: Jamie L. Greene
Reg. No.: 32,467

KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
(404) 815-6500
Docket: 47513/253113 (47513-0100)